



BEFORE THE SUBCOMMITTEE ON RURAL ENTERPRISES, AGRICULTURE
AND TECHNOLOGY OF THE SMALL BUSINESS COMMITTEE OF THE HOUSE
OF REPRESENTATIVES

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**CONCERNING THE ENDANGERED SPECIES ACT
AND ITS IMPACT ON SMALL LANDOWNERS AND SMALL BUSINESSES**

July 17, 2003

“I am a gun-toting, redneck, Texas Republican preacher.”

That is how Texas rancher Bob Long described himself last month in an article that appeared in the *Houston Chronicle*. Mr. Long is a good deal more than that. He has been the chairman of the Republican Party in Bastrop County, Texas, for the past two decades. He is also a rancher who is in the midst of restoring and enhancing habitat on his ranch for an endangered toad, the Houston toad, with help from my organization, Environmental Defense, and the Sand County Foundation, through our joint initiative called the Leopold Stewardship Fund. One of the ponds on Bob Long’s ranch where this effort has been carried out was silent in past years, but this year was filled with a chorus of breeding toads.

Bob Long and landowners like him across the nation are essential partners in any serious effort to conserve the nation’s imperiled wildlife and rare plants. They own much of the habitat where such species live. Indeed, for some species, they own all the habitat that remains. Further, the continued health and well-being of much of that habitat depends upon active management measures – to control invasive exotic species, to maintain desired vegetative characteristics, or to replicate natural disturbance regimes through prescribed burning or other measures – that can only be undertaken by, or with the cooperation of, landowners like Bob Long. In short, for many species, success in achieving the goal of recovery is not likely to be achieved without the active cooperation of private landowners.

A decade ago, Texas would have been a hard place to find many landowners willing to roll out the red carpet on their land for an endangered species. The prevailing view then was that endangered species could only mean trouble – bureaucrats telling you all the things you couldn’t do on your land. Today, Bob Long is not alone in inviting endangered species to share his land. A little to the west of Mr. Long’s property in Bastrop County, we are working with more than forty Hill Country ranch owners to restore and enhance habitat for two endangered songbirds, the black-capped vireo and the golden-cheeked warbler. The Leopold Stewardship Fund, mentioned above, has

contributed significantly to this effort as well. In far south Texas and far West Texas, owners of nearly two million acres of private ranchland have made their land available for reintroducing the endangered northern aplomado falcon, the rarest falcon in North America. Along the Texas coast, south of Houston, 13 landowners, including the chair of the Victoria County Soil and Water Conservation District, are restoring coastal prairie habitat on over 44,000 acres of land as part of a program intended to benefit the Attwater's prairie-chicken, one of the most imperiled bird species in the world. Further east, in the Piney Woods region of Texas, forest landowners are managing their land to help the endangered red-cockaded woodpecker.

It is not just Texas where this sort of thing is happening. In the Carolinas, over 140 landowners, who together own more than 350,000 acres, are carrying out management activities to improve conditions for the red-cockaded woodpecker. Some of the participating landowners own a few thousand acres; others own as little as two and a half acres. They include landowners like Dougald McCormick, whom I first encountered in 1992, when he drove a pickup truck with a license plate that read "IEATRCW." RCW, by the way, stands for red-cockaded woodpecker, and Mr. McCormick's license plate was emblematic of landowner attitudes in the North Carolina Sandhills then about endangered species. That was then. Times have changed. Not only was Mr. McCormick one of the first landowners to enroll his land in the program to help the RCW, but so was Jerry Holder, a former county Farm Bureau board member, past president of the North Carolina Pine Needle Producers Association, and 1997 North Carolina Forest Conservationist of the year. In Mississippi, former Mississippi Tree Farmer of the Year John Lambert is developing a similar agreement on his forest property for the endangered gopher tortoise and the RCW.

Similar programs for the RCW have been initiated more recently in Georgia and Virginia. In Oregon, Robert Russell is allowing a pond on his property to be used as a refugium for the endangered Oregon chub. In next door Idaho, the Soulen Livestock Company has tried to get out ahead of the curve with an agreement to help the southern Idaho ground squirrel on its land before that declining species finds its way onto the endangered species list.

These examples and many others like them illustrate that creative implementation of the Endangered Species Act can enlist the willing participation of many of the nation's farmers, ranchers, and forest landowners. I do not dispute that there have been and will continue to be situations where the requirements of the Endangered Species Act impose significant burdens on private landowners. Reversing the effects of decades of indifference to the plight of many imperiled plants and animals cannot be either easy or painless. It cannot happen through business as usual. Business as usual is what made all these species endangered in the first place. Nevertheless, I do believe that much progress toward the goal of recovering rare species can be accomplished in creative ways that enlist the cooperation of farmers, ranchers, and forest landowners.

What are some of those creative ways and how might they be improved? Most of the examples above are of safe harbor agreements, a conservation tool developed during the

Bruce Babbitt years at Interior, and embraced by his successor, Gale Norton. Safe harbor agreements allow landowners to enhance, restore, or create habitat for endangered species without incurring new or additional regulatory restrictions. We had a large hand in developing the first of these agreements in North Carolina, and are strong supporters of them. Nevertheless, having worked to develop these agreements for many different landowners in many different parts of the country, we strongly believe that the Fish and Wildlife Service needs to make it far easier for landowners to enter into these agreements. Fish and Wildlife Service Director Steve Williams has written that the Service intends to expand the use of these landowner-friendly and rare species-friendly agreements, and it should. But to accomplish that worthy goal, the Service has to commit itself to making these agreements simpler to understand and quicker to approve.

The same can be said for candidate conservation agreements with assurances. These are intended to encourage landowners to do things to help declining species before they need to be listed as endangered. The Soulen Livestock Company agreement in Idaho mentioned above is an example of such an agreement. In another of the initiatives of the Leopold Stewardship Fund, we are working to help expand the reach of that agreement to include some of the Soulen Livestock Company's neighbors.

Safe harbor agreements and candidate conservation agreements with assurances are effective at providing the regulatory assurances many landowners want before managing their land to attract endangered species. They don't necessarily address another important need, however. That is the expense of management. Virtually all of the management activities the landowners mentioned above are doing for endangered species entail expense, sometimes significant expense. If agreements of the sort discussed here are to realize their full potential, helping landowners meet these management expenses is vital. I have mentioned the Leopold Stewardship Fund that we and the Sand County Foundation have established as a private initiative to help landowners meet these expenses. But the resources available through that initiative are quite small in comparison to the need. The government itself has to step up to the plate. New programs like the Interior Department's Private Stewardship Grants Program and the Landowner Incentive Program are encouraging, though still small, initiatives. An expanded Partners for Fish and Wildlife Program could also greatly help. So too could better targeting of the considerable sums available through the Farm Bill's various conservation programs to projects that help imperiled species.

There are still other creative ideas by which endangered species can be turned into assets, rather than liabilities, for landowners. Take, for example, Hickory Pass Ranch near Austin, Texas. Its owners, the Johnston family, recently agreed to establish a conservation bank on part of the ranch. In effect, for their commitment to manage the property in ways that will maintain high quality habitat for the golden-cheeked warbler, they can sell mitigation credits to developers in the region whose projects are turning other habitat into streets and subdivisions. Conservation banking is a mechanism that is enabling the owners of the Hickory Pass Ranch to help an imperiled species and to keep the ranch that they love from being turned into an ocean of condos. This same mechanism can create similar incentives for other private landowners to do well by doing

good. The Fish and Wildlife Service recently published much-needed guidance on the development, operation, and use of conservation banks for endangered species. That guidance should encourage expanded use of this incentive-based conservation mechanism.

In summary, there are a great many ways in which private landowners can be and are constructively engaged in aiding the conservation of endangered species. Many of them are quite recent and have yet not gotten the attention that past conflicts have gotten. Clearly, there have been and will continue to be situations in which the needs of endangered species cannot be easily or painlessly reconciled with private objectives. I offer one further example that I think is instructive. Just over thirty years ago, the federal government cancelled the registration of nearly all products containing the pesticide DDT. There were howls of protest from those who argued that our agricultural economy would be destroyed, our small farmers put out of business, and the small businesses that serviced them shuttered. Thirty years later, we have nearly 40 million acres of former cropland idled, not because of the ban on DDT, but because of agricultural overproduction. None of the calamitous predictions of 30 years ago was well founded. Had our Congress then heeded the dire predictions of DDT's advocates, we would never have experienced the recovery of our national symbol, the bald eagle, or of the peregrine falcon or brown pelican. The ongoing recovery of the northern aplomado falcon in Texas pursuant to safe harbor agreements, would not have been thinkable. I offer this reminder for a simple reason. Though incentive-based approaches are a critically necessary part of any effective conservation program, we need the other parts too, including the judiciously applied regulatory requirements to address those problems that cannot be effectively solved in other ways.